

1 Q Did he come to the truck stop?

2 A Yes, ma'am.

3 Q Where the SMC truck was already there?

4 A Yes, ma'am.

5 Q Because Roy had driven it there?

6 A Yes, ma'am.

7 Q And were you introduced to him?

8 A No.

9 Q How did you know it was Sergio Cuellar?

10 A I heard them say it was Sergio.

11 Q You heard Roy say Sergio?

12 A Yeah and Eddie and they were all like they

13 already knew each other.

14 Q And so did he show you how to use the --

15 A The wench?

16 Q The wench.

17 A He didn't show us. He did it by himself but we

18 were there watching.

19 MR. DUNN: I'm going to object to the form
20 of the question. I think "show him how to use" is not, is
21 vague and ambiguous. So I'm going object to the form.

22 MS. WHITE: I'm going to mark this as
23 Exhibit 4. It's a family photo.

24 MR. HEARN: Cumulative Exhibit 4?

25 MS. WHITE: Yes.

1 (Exhibit marked for identification as
2 Deposition Exhibit Number 4.)

3 THE WITNESS: Do I pass it over?

4 MR. DUNN: Is that the color?

5 MS. WHITE: Yeah, that is the color of the
6 family photo.

7 MR. HEARN: Has this been produced in
8 discovery?

9 MS. WHITE: I don't think so. I think we
10 just downloaded it.

11 MR. HEARN: Okay. Well, I'll object to the
12 extent you ask him about a document that's never been
13 produced in discovery, but subject to that objection, go
14 ahead.

15 Q (By Ms. White) Do you recognize any of the people
16 in that photo as Sergio Cuellar?

17 A Yes, ma'am.

18 Q Starting from left to right, which one is he?

19 A The first one.

20 Q He's -- so, the first person?

21 A No, no, no. The last one. From left to right,
22 right?

23 Q Yeah, from left to right?

24 A Yeah, it would be the first one on the
25 right-hand side.

1 Q Okay. Wearing the glasses?

2 A Yes, ma'am.

3 MR. DUNN: When you are facing the exhibit
4 here, you are talking about the right-hand side?

5 MS. WHITE: Yes.

6 MR. HEARN: Since we're on video, just have
7 him point.

8 MS. WHITE: Oh, that's true. If you want
9 to flip it around.

10 MR. DUNN: That's too simple.

11 Q (By Ms. White) Can you point to which one is
12 Sergio Cuellar?

13 A (Indicating).

14 Q So before he arrived at the truck stop, do you
15 know -- do you know what truck stop it was you guys were
16 at?

17 A It was a small one. I don't know which one was
18 it.

19 Q Before he arrived at the truck stop, had you
20 attempted to hook a vehicle up to the SMC tractor?

21 A Before getting to the truck stop?

22 Q Before he arrived at the truck stop?

23 A They were doing it. It was Roy and Eddie trying
24 to hook up the Salinas Express truck.

25 Q And they weren't having much luck?

1 A No, they were having a lot of trouble as well.

2 Q And so did Roy make a phone call?

3 A I think Roy was the one who called them. I'm
4 not sure because I didn't see. He just got there.

5 Q And then Mr. Cuellar showed up?

6 A Yeah. Suddenly he just showed up. That's why
7 I'm saying they might have called him.

8 Q Did he proceed to operate the wench?

9 A Cuellar?

10 Q Yeah, Mr. Cuellar?

11 A Yeah.

12 Q And he's the one who in fact, did he assist in
13 hooking up the Salinas Express truck?

14 A Yes, ma'am.

15 Q To?

16 A The SMC truck.

17 Q To the SMC truck?

18 A Yes, ma'am.

19 Q And then what happened?

20 A After that we just got everything hook up and we
21 got all three of us, got on to the SMC truck and took off
22 to Houston.

23 Q When you say three that would be you, Roy and
24 Eddie?

25 A Eddie, yes, ma'am.

1 Q And Mr. Cuellar just left?

2 A He just left.

3 Q And where did you guys -- who drove to Houston?

4 A Roy.

5 Q And what did you guys do in Houston?

6 A We were going to pick up Art, Arturo.

7 Q Arturo Gutierrez?

8 A Gutierrez, yes, ma'am.

9 Q And why were you picking him up?

10 A He was going to try to fix the truck.

11 Q Is it your understanding he's a mechanic?

12 A Yeah, he's a mechanic.

13 Q Do you know him?

14 A Yes, I know him.

15 Q How do you know him?

16 A I seen him before. He used to be living in

17 Zapata a couple of years.

18 Q Does he operate his own company or?

19 A I don't know. I don't think so.

20 Q As you guys were going to Houston was there any
21 communication back with Rudy?

22 A No, ma'am.

23 Q So you pick up Art in Houston?

24 A Houston, yes, ma'am.

25 Q Do you know what day that was?

1 A I would say like, it took us almost a day to get
2 to Virginia. I don't know, to be exact. I don't know the
3 date, what date was it.

4 Q And do you know what time of day it was?

5 A I would say it was already at night. I would
6 say it was almost like 11:00 at night. When we arrived to
7 the store we were going pick him up.

8 Q Had someone called Art ahead of time to let him
9 know what was happening?

10 A Yeah, I think it was Roy the one who called him
11 and asked him for a favor to see if he can be able to go
12 with us and try to fix the truck.

13 Q Did you at that time know what was wrong with
14 the truck?

15 A No, ma'am.

16 Q And so then you guys proceeded to drive to
17 Virginia?

18 A Yes, ma'am.

19 Q So there are four of you in the truck at that
20 time?

21 A Yes, ma'am.

22 Q And did you guys take turns driving?

23 A Yes, ma'am.

24 MR. FRANKL: I'm going to object to the
25 form of the question. Not specific enough.

1 Q (By Ms. White) Did you drive the SMC truck at any
2 point on the way to Virginia?

3 A Yes, ma'am, I did.

4 Q And did Eddie drive the SMC truck?

5 A No, ma'am.

6 Q Did Art drive the SMC truck?

7 A No, ma'am.

8 Q Did Roy?

9 A Yes, ma'am.

10 Q So you and Roy took turns?

11 A Uh-huh.

12 MR. HEARN: Is that a yes?

13 A Yes, ma'am.

14 MR. HEARN: Everybody does it, but try to
15 remember say yes or no because uh-huh and unh-unh sound
16 the same sometimes.

17 THE WITNESS: I'm sorry.

18 MR. HEARN: That's fine. You're doing
19 fine.

20 Q (By Ms. White) And at that point from Houston to
21 Virginia you were still hauling Eddie's tractor?

22 A Yes, ma'am.

23 Q Why were you guys hauling Eddie's tractor?

24 A Because he was going, he was going to get, get
25 the trailer from Roy and deliver that load that Roy was

1 supposed to deliver a couple of days back.

2 Q And do you know where he had to deliver that to?

3 A Laredo.

4 Q Where in Laredo?

5 A I went with him. I don't remember, it was on
6 Mines Road, but I don't remember what place was it.

7 Q It was where?

8 A Mines Road, but to be exact, I don't remember
9 the exact name of the place.

10 Q Do you know what he was hauling?

11 A No, ma'am.

12 Q And do you know what time did you get to
13 Virginia, to the rest area?

14 A It was, like, around 4:00, 4:30.

15 Q In the?

16 A In the morning.

17 Q In the morning?

18 A Yes, ma'am.

19 Q On October 26th?

20 A Yes, ma'am, I think.

21 Q When you arrived in Virginia at the rest area,
22 who was driving?

23 A It was Roy.

24 Q Were you awake or asleep when you arrived at the
25 rest area?

1 A I was asleep, I think.

2 Q So who initially parked the SMC tractor at the
3 rest area?

4 A It was Roy.

5 MS. WHITE: It's just an overhead view
6 of -- I made multiple copies because there's multiple
7 witnesses.

8 MR. FRANKL: Let me see.

9 MS. WHITE: I might need it back at some
10 point for other people to draw on.

11 MR. DUNN: I definitely want to take a look
12 at it.

13 (Exhibit marked for identification as
14 Deposition Exhibit Number 5.)

15 Q (By Ms. White) I want you to take a look at
16 what's been marked as Exhibit 5, Cumulative Deposition
17 Exhibit 5.

18 Do you recognize that as an overhead view
19 of the rest area?

20 A Yes, ma'am, I do.

21 Q Is the area where the SM -- where Roy parked the
22 SMC tractor, is it shown on here?

23 A The area, yes, ma'am, it is.

24 Q Can you just -- can I borrow your red pen?

25 MR. HEARN: I don't know how it will show

1 up on there, but you are certainly welcome to try.

2 MS. WHITE: I have a Sharpie in my suitcase
3 in the car.

4 A You want me to mark it?

5 Q Yeah, if you can, where the SMC tractor, Roy
6 parked it?

7 A Okay. We were, the SMC truck was over here on
8 this side.

9 MR. FRANKL: Can you point to where you
10 just put a mark?

11 THE WITNESS: Yes, sir, I can. It was
12 right here.

13 MR. HEARN: Point with the pen, if you can.

14 THE WITNESS: It's on this side.

15 MR. DUNN: Can you turn it to me so I can
16 see?

17 A Uh-huh. More or less where the truck is at,
18 right in front of it.

19 Q And when -- so when you woke up was the truck
20 already stopped or...

21 A We were almost getting there to the rest area.

22 Q So you were awake when it was parked?

23 A Yes, ma'am, I was.

24 MR. HEARN: Okay. You can put it down so
25 you don't have to hold it. You can put it down.

1 Q (By Ms. White) And where -- so you put a red X
2 where the SMC --

3 MS. WHITE: That's fine. We'll take a
4 break.

5 THE VIDEOGRAPHER: The time is 2:19 in the
6 afternoon and we're off the record.

7 THE VIDEOGRAPHER: We're back on the
8 record. The time is 2:50 in the afternoon and you may
9 continue with the deposition, please.

10 MS. WHITE: Thank you.

11 Q (By Ms. White) All right. Before we broke for
12 lunch we started to describe the area where the accident
13 happened and where everyone was parked when you initially
14 arrived at the rest stop, and I think you put a red X
15 where Roy parked the SMC tractor, correct?

16 A Yes, ma'am.

17 Q Can you draw a rectangle where the broken down
18 Salinas tractor was when you arrived at the rest area?

19 A (Indicating).

20 Q And when you arrived at the rest area can you
21 can we agree that the left side that page would be facing
22 south and the right side would be north?

23 A Yes, ma'am.

24 Q When you arrived at the rest area, which
25 direction was the broken down Salinas tractor parked?

1 A Right in front of the other one (Indicating).

2 Q But was it parked facing south or parked facing
3 north?

4 A Okay, correction to that one. North is going to
5 be the exit side?

6 Q Yes.

7 A Okay, it was facing south.

8 Q It was facing south. So when Roy pulled in and
9 parked the SMC tractor, did he pull in front of it?

10 A On the side.

11 Q On the side of it?

12 A Yes, ma'am.

13 Q And what did you guys do then?

14 A After that we tried to unhook the trailer.
15 Well, first unhook Eddie's truck.

16 Q Okay.

17 A Take it apart from the SMC truck. Then we took
18 out the trailer from Roy truck. That way Eddie can hook
19 it up and just move it to the side so I could be able to
20 park the SMC truck so we can be able to work with the
21 other truck.

22 Q All right. Let's break that down a little bit.
23 So you are parked -- the SMC tractor is -- you pulled up
24 to the side of the Salinas tractor?

25 A When we moved the trailer?

1 Q All right. Is it okay -- all right?

2 A That's where we parked the SMC truck.

3 Q So the SMC tractor is parked right here where's
4 an X?

5 A Yes.

6 Q And then there's a rectangle where the --

7 A The disabled truck.

8 Q The disabled truck. And they're both facing
9 south?

10 A Yes, ma'am.

11 Q They're sort of side by side?

12 A Yes, ma'am.

13 Q And then did you proceed to unhook Eddie's
14 tractor?

15 A Yes, ma'am.

16 Q And then what did you guys do with Eddie's
17 tractor when you unhooked it?

18 A He just have to move it over to the other corner
19 over here. That way we can have some space so we can be
20 able to work with the disabled truck.

21 Q So did he pull it forward more southbound?

22 A The disabled truck?

23 Q No, Eddie, did he --

24 A Yeah, he just went around it, parked himself
25 over here.

1 Q Okay. So he went around where the SMC tractor
2 was parked and went more southbound?

3 A Yes, ma'am.

4 Q And then -- and then what did you guys do?

5 A We were trying to -- well, we tried to unhook
6 the disabled truck. That way we can be able, we were
7 trying to move the disabled truck forward so Eddie can be
8 able to hook the tractor out.

9 Q All right. So you unhooked the load from the
10 disabled truck and tried move to it so that Eddie could
11 just basically back in?

12 A Yes, ma'am, hook up the trailer.

13 Q And did you in fact unhook the load from the
14 disabled truck?

15 A Yes, ma'am.

16 Q Were you able to move it at all?

17 A Yes, ma'am.

18 Q Okay. Did you move it by driving it?

19 A Yeah. The only way that they could be able to
20 move it by driving it.

21 Q All right. Do you know, did you know at that
22 point what was wrong with it?

23 A Yeah. That's what Roy told us the differential
24 was, it wasn't working.

25 Q All right. And when you say the differential

1 wasn't working, do you know what specifically was wrong?

2 A No, ma'am. I think just like -- I'm not.

3 Q So it could be driven but just not a long
4 distance?

5 A It couldn't run. It was just like popping.
6 Like, every time that you would try to turn the wheel over
7 it was popping by itself. It would not even run like not
8 even two, three miles.

9 Q Okay. So but you were able to --

10 A Move it forward.

11 Q -- move it forward, more southbound?

12 A Yes, ma'am.

13 Q Do you know how far you moved it forward?

14 A No, ma'am.

15 Q Okay. And then so that left the load from that
16 disabled vehicle sitting where it had been?

17 A Uh-huh.

18 Q Yes?

19 A Yes, ma'am.

20 Q And then so did you hook up Eddie's truck to
21 that load?

22 A Yes, ma'am.

23 Q And then what did you guys do?

24 A Then he moved it to, he just took the trailer to
25 one side. That way he would leave a little bit of space

1 so we can be able to work with the truck.

2 Q Okay. So Eddie moved the load from the disabled
3 tractor.

4 A Yes, ma'am.

5 Q More southbound?

6 A Uh-huh. Yes, ma'am.

7 Q All right. And then what did you guys do?

8 A That's when Art just got in and tried to work on
9 the differential see if he can be able to fix it or try to
10 do something with so that we can be able to move the truck
11 from the rest area, but we couldn't. That's why we had to
12 get the SMC truck.

13 Q And is the -- so then what did you guys do?

14 A Tried to unhook the disabled truck with the SMC
15 truck.

16 Q And which direction? Were they still facing
17 southbound when you guys attempted to do that?

18 A No, ma'am, it was facing north.

19 Q Which one was facing north?

20 A SMC truck.

21 Q How did that happen?

22 A Because the way that it was facing, Salinas
23 truck, it was facing north and the only way we could be
24 able to work with that, hooking up with SMC, it was
25 backing up the both trucks and hooking up with the back

1 side because that's the part that was messed up.

2 Q So the Salinas, the disabled Salinas truck was
3 still facing south?

4 A Yes, ma'am.

5 Q And somehow the SMC tractor became facing north?

6 A Yes, ma'am.

7 Q How did that physically happen?

8 A There was no way that we would be able to hook
9 up both the truck facing the same way because the, the
10 tractor disabled truck wouldn't be able to run. We had to
11 we had to grab it from behind, that way, because the way
12 it does, just pick up from the back side, pick it up, it
13 would be in the air. It won't be rolling. And that way
14 we can be able to work with it and try to remove it from
15 that place.

16 Q So did someone drive the SMC truck in and turn
17 it around to face north?

18 A Yes, ma'am.

19 Q Who did that?

20 A I'm not sure if it was Roy who did that or who
21 was it. I'm not sure.

22 Q Did he do that within the rest area, just made a
23 u-turn?

24 A It was just only the truck, the tractor. He
25 just made a u-turn.

1 Q He made a u-turn within the rest area?

2 A Yes, ma'am, inside.

3 Q And then so at some point you hooked the SMC
4 tractor up to the Salinas, disabled Salinas tractor?

5 A Yes, ma'am.

6 Q And was that on the side you had denoted with an
7 X or on the side where there was the rectangle?

8 A On the rectangle.

9 Q Okay. And who assisted in -- let me strike
10 that.

11 Who operated the wench to get the disabled
12 Salinas tractor hooked up to the SMC tractor?

13 A Roy.

14 Q Did you help at all in doing that?

15 A Yes, ma'am.

16 Q What did you do?

17 A We were putting chains on the differential, the
18 disabled truck. That was the only part that would he be
19 able to work with the, when the wench -- we were trying to
20 hook up with the wench on the disabled truck, it would
21 pick up the whole thing with the differential and the
22 wheels and everything.

23 Q And what was Eddie doing during that time?

24 A He was there helping us.

25 Q Do you know what he did specifically?

1 A No, ma'am, I don't remember where he was, to be
2 honest.

3 Q And what about Art, what was he doing?

4 A He was checking the differential, try to see
5 what was wrong with it or...

6 Q So at some point you all were successful in
7 getting the broken down Salinas tractor hooked up to the
8 SMC tractor?

9 A Correct.

10 Q And then what did you all do?

11 A When we got down, we were trying to back it up
12 that way -- we were trying to -- I don't know how to say
13 those words exactly the way you all talk, but we were
14 trying to straighten the other truck to be able to turn
15 SMC truck to the south side so we can be able to take off.
16 But we couldn't because all the rest area, even the ramp,
17 was full of trucks. It was super packed that we couldn't
18 be able to, to turn that little piece where is that right
19 now I don't know.

20 The only way we could be able to do it, to
21 try, was just going straight to the exit, to the entrance
22 side, try to break that truck disabled and turn it back
23 on. And that's what I was trying to do because I was the
24 one driving.

25 MR. FRANKL: Let's go off the record a

1 minute.

2 THE VIDEOGRAPHER: The time is 3:01 in the
3 afternoon and we are going off the record.

4 THE VIDEOGRAPHER: We are back on the
5 record. The time is 3:05, and we are back on the record.
6 You may continue.

7 Q (By Ms. White) So we have the Salinas disabled,
8 disabled tractor. Does that tractor have a number that
9 you know of?

10 A Yeah, they do, but I don't know the number.

11 Q So the disabled Salinas tractor is facing south
12 and SMC tractor is facing north, and I think you described
13 the rest area was very crowded.

14 A Yes, ma'am.

15 Q So there was no opportunity to do a u-turn
16 within the rest area?

17 A Yes, ma'am, correct.

18 Q Were there trucks sort of parked along the
19 entrance ramp there?

20 A Yes, ma'am.

21 Q Do you know how many?

22 A It was packed.

23 Q So one after the other?

24 A Yes, ma'am. It was like about --

25 Q And what did you guys do?

1 A Well, we were trying to make the u-turn, but I
2 couldn't because what happened when you have two tractor
3 it's kind of hard to make that, to back it up. The only
4 thing that we did, we were trying to straighten that
5 thing, the tractor with the trailer -- with the other
6 tractor hook up, tried to, tried to straighten it out
7 straight so I could be able to back it up without hitting
8 both sides -- because on both sides there were tractors
9 with trailers.

10 The only thing I thought about doing was
11 making my turn to get the other tractor straight out so I
12 can be able to back it out slowly. Tried to get to this
13 side and try to break the disabled tractor so I could be
14 able to turn the other way around so I can be able to get
15 the exit side the way it's supposed to be.

16 Q So you thought about trying to go out and go
17 through where the cars are?

18 A Exactly. Yeah, I was going to make my -- I made
19 my turn right over here, like around this area.

20 Q Where the triangle is?

21 A Yeah, more or less where the triangle is at.
22 That was the only way that I could have the other truck
23 facing straight out without hitting both on the side
24 because it was full of trucks. And that's what I did. I
25 was just like -- I don't know how to say those words but I

1 was, how do I -- I was just like moving both of the trucks
2 and try to straight it out so I can be able to back it up.

3 Q So was it your intention to make a u-turn to go
4 south on 81?

5 A No, my intention was making that little turn so
6 I can be able to have the other disabled truck straight
7 out so I can be able to back it up on the way back and
8 make my u-turn right over here on this space because that
9 was the only space I had to make my U-turn.

10 Q So to back up the tractor straight to where the
11 cars go and then be able to turn south?

12 A On the exit side.

13 Q On the exit side.

14 So you were driving the SMC tractor?

15 A Yes, ma'am, I was.

16 Q Was anyone spotting for you?

17 A Yeah, there were two. It was Art and Roy. They
18 were like a couple of foot away where I was. Like one was
19 far away from the another one. They both were watching
20 because like I was facing the entrance, facing the
21 entrance side, I had -- there was, like Roy was standing
22 like around this area.

23 Q Can you put an R where Roy was standing?

24 A More or less.

25 Q And E where Eddie was?

1 A No, it wasn't Eddie.

2 Q Art. Roy and Art.

3 Where was Eddie when you were doing this?

4 A I never saw him. He was there when I was barely
5 trying to pull out the other truck but I never saw him
6 when all this happened. I never saw him. I don't know if
7 he was there with him or not because he was there but I
8 never saw him again. I don't know what happened to him.

9 Q So what were Eddie -- strike that.

10 What were Art and Roy doing as you were
11 pulling out the entrance?

12 A He was, they were checking, checking for vehicle
13 that was approaching where I was exiting, that I was
14 pulling, right, because I was pulling the wrong side.
15 They thought like if I was pulling this way, they thought
16 there was some other vehicle coming in and it was going to
17 be like accident or something. And they were watching
18 there for me.

19 Q And did they have any -- did you guys have any
20 agreed upon signal or anything?

21 A I had my window down. They were screaming at
22 me, telling me slow down. Because we weren't that far
23 from each other.

24 Q So you could hear what they were saying?

25 A Yes, ma'am.

1 Q And they would give you direction?

2 A Yes, ma'am.

3 Q Both of them?

4 A Yeah.

5 Q And so what is the furthest point along the
6 entrance ramp that you got pulled forward?

7 A It was around this area. It was this corner. I
8 made my turn because like on this area right here, they
9 had like a sign and I just, I was just straighten out the
10 other truck. I just made my turn like that so I could
11 have the other one breakdown to be on the safe side, on
12 the side, and I was going to break down this truck, break
13 down slowly and try to back it out of the way.

14 Q So where you just put a mark, sort of a curve
15 that is the furthest point that you got forward?

16 A (Indicating).

17 Q At any point did you have any flashers?

18 A I had my lights on.

19 Q Headlights?

20 A Yeah, headlights.

21 Q Any emergency --

22 A I had my flashers on.

23 Q Emergency flashers?

24 A Yes, ma'am, from the truck.

25 Q Had you set out any sort of --

1 A Triangle?

2 Q -- triangle or anything.

3 A No, because I was moving. I was pulling the
4 other truck out, that's why.

5 Q At any point did the, -- part of the SMC tractor
6 that you were driving get into either of the lanes of
7 Interstate 81?

8 A To be honest, I don't know. I don't know
9 because the only thing that I heard, it was Roy, he
10 screamed at me and told me to stop. And I just made -- I
11 just made a complete stop. And that's why it was
12 approaching, like it was a white car that was approaching
13 on the, from the interstate but he was coming on the
14 left-hand side on the fast lane.

15 Q So you saw a white car coming in the left hand
16 lane on Interstate 81?

17 A Correct.

18 Q And did it pass you by?

19 A Yes, ma'am.

20 Q So at some point do you know exactly what Roy
21 screamed?

22 A Yeah, because like I was moving the truck, I was
23 trying to work it. I never saw the light coming by. Then
24 the only thing he told me just stop before, because he
25 thought I was trying to make like a u-turn something when

1 I was just trying to move the truck so I can able to back
2 it up. He told me to stop and I just stopped just like
3 that. And that's when I saw that white car. It just
4 slowed down. It was slowing down. That's when the
5 accident happened.

6 Q All right. And do you know when you stopped
7 where you were?

8 A I was right here.

9 Q Where you made the mark, the curve?

10 A Exactly.

11 Q Were you -- at any point were you in the right
12 lane of Interstate 81 south?

13 MR. HEARN: Objection. Asked and answered.
14 Go ahead.

15 A I don't know.

16 Q (By Ms. White) Do you know if you were in the
17 left lane at all?

18 MR. HEARN: Same objection.

19 A I don't know because I didn't went that far
20 inside the Interstate.

21 Q But you do think you were in part of the
22 Interstate?

23 A I thought I was because Roy screamed at me.
24 That's why I got all scared and just slammed the brakes.
25 Then that's why I saw that white car that was passing

1 through. That's when the accident happened because what
2 happened is that that car, that white car was coming on
3 the fast lane. I'm talking about the left-hand side, the
4 fast lane.

5 And then what happened, that car just
6 slowed down a little bit because they saw my headlights
7 and my flashers. That's when the Toyota, I think he was,
8 I don't know, I don't want to say anything but I think he
9 was distracted that he just made that skip, like, he
10 thought he was going to hit that white car, he skip it to
11 the right-hand side, then tried to turn that truck back
12 inside to the left-hand side, that's why he hit me on the
13 headlights.

14 Q Okay. So at some point did you see headlights
15 from the Toyota truck?

16 A What do you mean?

17 Q Did you ever see headlights coming from the
18 Toyota truck?

19 A I saw them, yes, I do.

20 Q Do you know what lane he was in?

21 A What was that?

22 Q When you first saw him, the headlights from the
23 Toyota truck, do you know what lane he was in?

24 A He was on the left-hand side on the fast lane.

25 Q What did you do when you saw those lights?

1 A I was just parked. I didn't do anything. I was
2 just parked.

3 Q Did you at all try to reverse?

4 A I did a little bit, pero, that wasn't that time.
5 It was before when he start screaming at me, Roy. I
6 reverse a little bit but I didn't reverse all the way
7 because I couldn't see behind me and it was full of
8 trucks. I was afraid I was going to hit one of the
9 trucks. That's why I just parked where I was at.

10 Q How long do you think you were stationary after
11 Roy yelled at you to stop between when the impact
12 happened?

13 A To be exact, I don't know. I would say like
14 one, two minutes, three minutes.

15 Q How far away do you know was the Toyota truck
16 when you first saw it?

17 A When I just first saw it? Because at first the
18 first vehicle that I saw was the white one.

19 Q Okay.

20 A It was just couple of seconds when I saw the
21 other one.

22 Q And the white one passed you?

23 A On the left-hand side. He was coming left-hand
24 side. The only thing they did is just slow down a little
25 bit because they saw my headlights and that's when

1 suddenly I saw the Toyota coming behind. That's when I
2 heard it slammed because I don't know if he slammed the
3 brakes or he just turned the steering to one side and he
4 try to turn the other side. Because what happened he just
5 turned to one side and he skip it.

6 And that's when he just went straight
7 out -- well, he didn't went straight out with my
8 headlights but he was just like a little -- he just skip
9 it. It didn't went straight to the headlights, just like
10 skip it to one side and got the headlight and the bumper.

11 Q All right. So the white vehicle that you saw
12 pass you, had that vehicle previously been in the
13 right-hand lane?

14 A Unh-unh.

15 Q No?

16 A What do you mean?

17 Q So you're sitting there and you see the white
18 vehicle pass you. Do you know if it passed you on the
19 left-hand lane?

20 A Yeah, left-hand lane.

21 Q Do you know if it had previously been in the
22 right-hand lane?

23 A No, I don't think so. I never saw him in the
24 right-hand lane.

25 Q And so did you see the Toyota truck change

1 lanes?

2 A Yes, I did.

3 Q How far away from you?

4 A It wasn't that far.

5 Q Okay. Do you have any idea why he changed
6 lanes?

7 A Because he was going to hit the white car.

8 Q And the white car slowed down?

9 A Yeah, it slowed down a little bit.

10 Q And at that point were your headlights sticking
11 straight out across the highway?

12 A Yes, ma'am.

13 Q At any point did you hear screeching tires from
14 the Toyota truck?

15 A That's, that's what I'm saying. I don't know if
16 it was the slamming of the brakes or he was, because at
17 that same time when I heard that slam it was when he was
18 skipping the white car, trying not to hit the white car.

19 Q And at some point the Toyota truck made impact
20 with the front of the SMC vehicle?

21 A Yeah, it was like a skip.

22 Q It was like what?

23 A It was like a skip. It just -- it just barely
24 touched the headlight. That's why it just break the
25 headlight and moved a little bit of the bumper.

1 Q So it bounced?

2 A No, it didn't bounce. It just went straight
3 out -- he just tried to -- I don't know. I don't know how
4 to say this word well.

5 He was trying not to hit the truck, but he
6 did hit a little bit on my headlights and that's why he
7 went over and parked on the, on the left-hand side of the
8 Interstate.

9 Q Okay. Do you know where the impact happened
10 with the SMC vehicle and the Toyota truck?

11 A Where exactly it happened?

12 Q Yes.

13 A Where it happened (Indicating) right here.

14 Q Okay. Do you know whether -- do you know, did
15 it happen in the right-hand lane of Interstate 81 south?

16 MR. HEARN: Object to form. You can answer
17 if you understand the question.

18 A I don't.

19 Q Do you know if the accident happened --

20 A On the right-hand side?

21 Q -- on the right-hand side?

22 A On the slow lane?

23 Q Yes.

24 A It did happen on the slow lane.

25 Q Okay. And then he ended up on the, in the

1 left-hand lane?

2 A Yes, ma'am.

3 Q And how was his vehicle facing?

4 A Facing that way.

5 Q Facing southbound?

6 A Facing south.

7 Q Was it straight, was it angled at all?

8 A At an angle.

9 Q And was it facing -- if you're looking, was it
10 facing more towards the left or towards the right?

11 A It was facing more to the left. It was just
12 like -- let's say the highway's going this way and he was
13 facing like that, at an angle.

14 Q So he's facing towards the median?

15 A Yes, ma'am.

16 Q All right. And is he fully in the left-hand
17 lane or is he partly in the right lane?

18 A What do you mean?

19 Q Is he between the two lanes?

20 A No, he was just in the left-hand lane.

21 Q Fully in the left-hand lane?

22 A Yes, ma'am.

23 Q At an angle facing towards the median?

24 A Uh-huh.

25 Q Yes?

1 A Yes, ma'am.

2 Q What did you do then?

3 A After that I got shocked. I was all shocked
4 because of what I just saw. The only thing that I saw was
5 Art that went all the way to the truck, tried to pull him
6 out and he did. He pulled the guy out and asked him to
7 come over to the safe side. He was going to bring him
8 over to the rest area so he won't be on, on the way. But
9 he never did. He was just standing outside his truck,
10 just, he was behind the truck on the bed, standing staring
11 at me because we were both staring at each other, but I
12 was in shock.

13 He was there, I would say, like, I would
14 say he was there a couple of minutes, like, one, two
15 minutes, three minutes because he made it all the way
16 where I was at until that bread truck came over and hit
17 that little truck.

18 And the only thing that I heard that Art
19 told me, he just came over and ask him -- he was -- he
20 just came over and told me, you know what, I told him to
21 come over. I told him to come over.

22 He was like in shock because he went over
23 and took him off from the truck, tried to pull him our
24 where we were at for the safe side and he never want to
25 and he was like just in shock.

1 Q Were you still sitting there in the SMC tractor?

2 A Yes, ma'am, I was.

3 Q Did you move it at all?

4 A No. I did move it later on when the cops
5 arrived because the lady, the one in charge of the rest
6 area, she told me to move the truck because they were
7 going to use that as an entrance for the Interstate so all
8 the vehicles can be able to pass through.

9 Q Do you know her name?

10 A No, ma'am.

11 Q Did you move your vehicle at all before the
12 police arrived?

13 A No, ma'am.

14 Q So it was still sitting exactly where you've
15 drawn the, drawn it in that photograph?

16 A Right over here. I don't know if the police
17 told her or who told her to -- that I can be able to move
18 to one side so I won't be in the way.

19 MS. WHITE: Let's go off the record a
20 second.

21 THE VIDEOGRAPHER: The time is 3:25 in the
22 afternoon and we are off the record.

23 THE VIDEOGRAPHER: We are back on the
24 record. The time is 3:33 in the afternoon and you may
25 continue with the deposition, please.

1 MS. WHITE: Thank you.

2 Q (By Ms. White) So did you witness the man from
3 the Toyota truck get out of his vehicle?

4 A Yes, ma'am.

5 Q And how long was it before the bread truck came
6 along?

7 A It was like, I would say like two or three
8 minutes because it took -- they'd give him time to Art be
9 able to talk to him, pull him out of the truck and try to
10 get him to the safe side and get him back to the safe side
11 with Art. It was just a couple of minutes.

12 Q You watched Art do all of this?

13 A Yes, ma'am.

14 Q Where were you at?

15 A On top of the truck. Where I was at, I never
16 moved from that place. I never moved. I was still in the
17 same place until somebody came over and asked me to move,
18 that lady.

19 Q And the police were there when she asked you to
20 move?

21 A I think they were because the ambulance was
22 there, the, everybody was there. I don't remember by the
23 PD -- the police were there.

24 Q Did you talk to a state trooper at the scene?

25 A Yes, ma'am, I did.

1 Q Where were you when you first talked to him?

2 A They moved me to this point, the same place
3 where I was that first time where this truck was it.

4 Q Okay.

5 A I had back all the way back and park me on this
6 side because, that way I won't be in the way.

7 Q And did the state police, state trooper direct
8 you to do that?

9 A No, it was the lady, the one in charge of the
10 rest area.

11 Q So Art is trying to get the man from the green
12 truck to come across the highway?

13 A Correct.

14 Q During those two, three minutes did any other
15 traffic pass by?

16 A No, ma'am.

17 Q But he doesn't come?

18 A He doesn't move from where he was standing.

19 Q Did he seem in shock?

20 A We were kind of far. It was kind of dark that
21 time. I saw he was outside. I don't know if he was
22 shocked or not. I was.

23 Q Did you overhear him say anything?

24 A No, I never heard him say anything.

25 Q Had Art told you whether he said anything to

1 him?

2 A No. The only thing he told me like I told him
3 to come over with me, I told him to come over. Like he
4 was in shock. I was in shock at that time. Because he
5 was repeating the same thing over and over again.

6 Q And then what happened when the bread truck came
7 along?

8 A He didn't -- he hit him from behind of his
9 truck. That truck start spinning. That's when he got hit
10 on his legs because that truck start spinning and that's
11 when he flew from the other side. And that truck came all
12 the way and there was like a little, there was like a pine
13 in between -- right in here. That car just came, just:
14 came all the way over here.

15 MR. HEARN: Do you want to keep going or
16 stop?

17 MS. WHITE: We'll stop.

18 MR. HEARN: Okay.

19 THE VIDEOGRAPHER: Time is 3:37 in the
20 afternoon and we're off the record.

21 THE VIDEOGRAPHER: The time is 3:38 in the
22 afternoon, and you may continue with the deposition,
23 please.

24 Q (By Ms. White) So where was the young man who had
25 been in the Toyota standing when the second crash

1 happened? Can you put a B for Brandon?

2 A (Indicating).

3 Q Was he standing on the side of the road or in
4 the road?

5 A He was standing on top of the road beside his
6 truck.

7 Q Was he in the lane of travel or?

8 A Yeah, he was in the lane.

9 Q In the left lane?

10 A Yes, ma'am.

11 Q Behind his truck or in front of his truck?

12 A He was on the side of the truck because his
13 truck was facing that way, like that. He was standing on
14 the back of his truck on this side over here. And we were
15 facing each other because he was facing this way and I was
16 over here on this side. Let's say we were facing each
17 other.

18 Q And was he impacted? Was he struck by the white
19 bread truck or by his truck?

20 A I'm sorry, I didn't understand that part.

21 Q Was he -- did the white bread truck hit him?

22 A Yes.

23 Q Or did the white bread truck hit his truck which
24 then hit him, or did you --

25 A The bread truck was the one who hit him.

1 Q The bread truck hit Brandon?

2 A Yes, ma'am.

3 Q And you saw him being --

4 A I never saw him flying away. I just saw him
5 when that thing start spinning, when that bread truck hit
6 him that bread truck just, let's say, he slammed the
7 brakes. He just flipped over. And that truck just kept
8 on spinning. I never saw he flew away but I know that he
9 did because I think he was standing behind his truck on
10 the bedside. By the time that truck hit the bed that
11 thing start spinning and that's when I knew that he flew
12 away.

13 Q Okay. Did you ever see him after that again?

14 A Unh-unh. I was like in shock because I saw -- I
15 was -- I feel bad because I saw the helicopter came over
16 to pick him up.

17 Q Pick up the young man from the Toyota or?

18 A From the Toyota.

19 Q Or the bread truck?

20 A No from the Toyota. The ambulance took out
21 that, I think they were a couple in the bread truck.

22 Q Did you ever talk to the driver from the bread
23 truck?

24 A No, ma'am, I never did.

25 Q Did you ever call 911?

1 A No, ma'am, I was in shock.

2 Q Did Eddie or Roy or Art call 911?

3 A No, ma'am -- I don't know, ma'am.

4 Q As you were trying to exit the entrance ramp,
5 did any vehicles enter the rest area at that time?

6 MR. HEARN: Object to form.

7 A No, ma'am.

8 Q (By Ms. White) Do you recall was there a big Do
9 Not Enter sign on the entrance?

10 A I never saw it. They should be because there
11 was a sign, but I never saw it because it was facing the
12 correct way, the vehicle was going to get on, they were
13 going to entrance. The sign was facing this way and I was
14 coming back. I never saw what the sign was saying because
15 there was a sign that they were saying rest area.

16 Q Yeah. I'm not talking about -- you know, you've
17 seen the big orange --

18 A Yeah.

19 Q -- Do Not Enter sign?

20 A Yes, ma'am, I do.

21 Q Was there one of those facing in the direction
22 you were traveling?

23 A I never saw one. You're saying, like, around
24 this area?

25 MR. HEARN: Just wait for the next

1 question.

2 THE WITNESS: Sorry.

3 MR. HEARN: That's all right.

4 Q (By Ms. White) Was there any damage done to the
5 Salinas tractor?

6 A No, ma'am.

7 MS. WHITE: We'll mark as the next exhibit.

8 MR. HEARN: Six.

9 (Exhibit marked for identification as
10 Deposition Exhibit Number 6.)

11 Q (By Ms. White) Do you recall seeing -- well,
12 Exhibit 6 is a Do Not Enter Wrong Way sign.

13 A Yes, ma'am, I never saw it.

14 Q That's what it is, it's a Do Not Enter Wrong Way
15 sign. Did you ever see a sign like that?

16 A It was full of trucks. I couldn't, it was
17 packed of trucks on both sides of the ramp.

18 Q But as a professional truck driver, did you
19 understand --

20 A Yes, ma'am.

21 Q -- that you should not have exited the entrance
22 ramp?

23 MR. HEARN: Object to form. You can
24 answer.

25 A There was no other way that I could be able to

1 pull that truck out. I was trying to make the u-turn,
2 trying to do something with the truck and pull it out.

3 Q Did anyone ever say that maybe we should wait
4 for traffic to clear?

5 MR. FRANKL: Objection. Basis of the
6 question, what traffic are you talking about?

7 Q (By Ms. White) All of the vehicles at the rest
8 area, did anyone ever suggest that maybe you guys just
9 wait?

10 A No.

11 Q So you talked to the trooper after the accident?

12 A Yes, ma'am.

13 Q Do you recall telling the trooper that it was
14 only 30 seconds between the two impacts?

15 A Yes, ma'am.

16 Q But you now think it was more like one or two
17 minutes?

18 A Yeah, because at that time I was in shock. I
19 was just afraid. I don't know. I had too many things in
20 my head when that happened.

21 I think it was, it was more than 30 seconds
22 because Art had time to go and talk to him, pull it up on
23 the truck and come back where I was at.

24 Q Do you recall -- did you tell the trooper that
25 you never saw anyone get out of the vehicle?

1 A Yes, ma'am, I did. Same thing, I was in shock.
2 I had -- I couldn't be able to think. Everything happened
3 in front of me, that's why.

4 Q So was it you that drove, that moved the vehicle
5 at some point?

6 A Which vehicle?

7 Q The SMC tractor?

8 A In the rest area?

9 Q Yeah.

10 A I was the one that I moved it.

11 Q Yeah. At some point after the accident though
12 you moved the SMC tractor?

13 A Yes, I was the one moving it until the
14 trooper -- because what we did by the time they got, they
15 told me that I was free to go, when everything happened,
16 when the accident happened, all the rest area got cleared
17 up. Everybody took off. Even the one that was in the
18 ramp, all the tractors just move out.

19 When everything got clear up, I was trying
20 to back it up on this side over here and tried to back it
21 up again, and that's when the trooper told me not to do
22 it. And I told -- that's when I told Roy to try to help
23 me out and move it out. The only thing he did, just pull
24 forward slowly, but it was the only thing, moving forward
25 with the truck.

1 Q So but after the lady from the rest area told
2 you to move the tractor you were able to move it at that
3 time?

4 A Yes, ma'am.

5 Q And when the trooper was finished with his
6 investigation, you were able to move the tractor at that
7 time?

8 A Yes, ma'am.

9 Q And he saw you backing up again and told you not
10 to do it?

11 A Yeah, he was going to give me another ticket,
12 because I couldn't be able to do, do that u-turn that I
13 was thinking about doing inside the rest area.

14 Q Did you tell the trooper that when you heard the
15 truck pressing its brakes that you started to reverse?

16 MR. HEARN: Object to form.

17 A I'm sorry. I don't remember. I don't think so.

18 (Video playing.)

19 MR. HEARN: Hold up. Hold up. For the
20 record, can you identify what you are -- I assume you're
21 going to show something to the witness and ask the witness
22 a question about it.

23 MS. WHITE: I'm going to ask him to listen
24 to it and ask him if that's him.

25 MR. HEARN: Okay. Can you identify what

1 that is, where it came from and what you want him to do.

2 MS. WHITE: Yes. This is a segment from
3 the trooper's video dash cam that I'm going to ask him to
4 listen to it and ask him to confirm it is him and what his
5 statement was.

6 MR. HEARN: Okay. And is there a
7 demarcation about time by time or something because that
8 dash cam is like almost an hour long.

9 MS. WHITE: Yeah. I have it broken up into
10 segments. It's what we have designated as Martinez
11 Segment 4.

12 MR. HEARN: But do we know what segment --
13 the time segment it appears on the dash cam video so
14 there's some way to reference that time segment?

15 MS. WHITE: No. I just have it broken it
16 down by segments.

17 MR. HEARN: All right. So she's going to
18 play that and ask you questions about it.

19 Hold up. I'm sorry, Johneal. I didn't
20 mean to interrupt you. Is there video with that or is
21 that just audio?

22 MS. WHITE: It's the video.

23 MR. HEARN: Do you want him to watch the
24 video or are you asking him to just listen to the audio?

25 MS. WHITE: I really just want him to

1 listen to the audio because video is just...

2 MR. HEARN: Well, I'm going to object to
3 the extent you're playing a video and not allowing -- hold
4 on -- and not allowing the witness to view the video and
5 listen to the audio at the same time.

6 MR. HEARN: You're not going to be able to
7 transcribe it, no.

8 MS. WHITE: No.

9 (Video playing.)

10 Q (By Ms. White) So I wanted to stop it right
11 there. Is that you talking on that audio?

12 A Yes, ma'am, it is.

13 Q And did you -- was your statement to the trooper
14 right then that I know I got in the way?

15 A I thought I got in the way because that's the
16 first thing is just slammed with me, when I saw
17 everything. I was just in shock. I didn't know what I
18 was saying to be honest. I was in shock.

19 Q I understand.

20 A That's why I was repeating the same thing over
21 and over again.

22 The way that I hear the conversation that
23 we had, it's just like, to be honest I was in shock. I
24 don't know what I was saying because I was trying to tell
25 the PD, the police officer, that I was trying to back it

1 up and I thought -- that's what I thought that I was in
2 the way, that's why the accident happened, but I wasn't.

3 Q Okay. And I just want to clarify that that's
4 you on the audio.

5 A Yes, ma'am.

6 Q And I just want to clarify exactly what your
7 statement was at the time. Whether you disagree with it
8 now or not, that's not the point of the question.

9 Was your statement at the time "I know I
10 got in the way"?

11 MR. HEARN: Let me just object. I'm going
12 to object to that question to the extent you played an
13 audio and video clip that's span a certain amount of time,
14 that had multiple voices on it, some of which are not
15 Mr. Martinez and some of which are. And in that segment
16 that you played for him, Mr. Martinez made multiple
17 statements.

18 So I object to the characterization and
19 form of the question to the extent you're trying to take
20 one piece of it and then characterize it as his statement.

21 So subject to that objection, you can
22 answer her question.

23 Q (By Ms. White) So did you in fact state at the
24 time, I know I got in the way?

25 A Yeah.

1 (Video playing.)

2 Q And did you state that you heard the truck press
3 its brakes and then you attempted to reverse?

4 A Yes, ma'am.

5 Q Okay. After the impact with the bread truck,
6 did you ever see any other vehicles drive south on
7 Interstate 81?

8 A No, ma'am, I never saw them.

9 Q And when you were talking to the trooper, at
10 some point did you hand him your logbook?

11 A Yes, ma'am, I did.

12 Q And was that a logbook that was kept with the
13 SMC vehicle?

14 A That was Salinas logbook. That's one of the
15 logbook we use for Salinas.

16 Q So that was a Salinas logbook?

17 A Yes, ma'am.

18 Q And do you know what happened to that logbook?

19 A No, ma'am.

20 Q Would you agree, as a professional truck driver,
21 that the maneuver you were attempting was extremely
22 dangerous?

23 MR. FRANKL: I'm going to object to the
24 form of the question.

25 MR. HEARN: Object to form.

1 Q (By Ms. White) You can answer.

2 A I know it was dangerous, pero, like I had some
3 help, that's why.

4 Q So as you're making the maneuver and your
5 headlights are pointed across 81, where were you directing
6 your attention?

7 A What do you mean?

8 Q Were you looking across 81 crosswise, were you
9 looking to your left up the Interstate, were you looking
10 backwards?

11 A I was checking to my left-hand side because of
12 incoming cars. I was checking if I don't see no vehicles,
13 I can be able to be playing with the truck so I can be,
14 able to back it up all the way to the back.

15 Q And you were in fact relying upon Roy and Art to
16 make sure your backing up was safe?

17 MR. FRANKL: Object to form.

18 MR. HEARN: Objection.

19 A The interest?

20 Q What about -- what were you relying upon them to
21 do?

22 A They were going to check just in case some
23 vehicle was trying to get to where they were going to stop
24 them. Try to avoid some accidents because I was in the
25 way.

1 Q You were charged with failure to obey the
2 highway sign?

3 A Yes, ma'am.

4 Q You didn't come to Virginia to contest either of
5 those?

6 A I was, but I didn't have -- I didn't have
7 financial to be able to go. Because that's one of the
8 things I told the trooper that why I was given that
9 reckless driving ticket for.

10 Q So you were upset with the trooper when he gave
11 you the ticket?

12 A No, ma'am. No, I wasn't. I just wanted to see
13 what was his explanation about that ticket.

14 Q Well, did you express to the trooper words to
15 the affect that I messed up?

16 A Yes, ma'am, I did.

17 Q How did you guys eventually get the truck out of
18 the rest area?

19 A After everything got cleared up, the rest area
20 got cleaned up, we had, the deputy was inside. He was
21 beside us. We had to unhook that truck, slowly pull it
22 out from the rest area, get a chain, hook it up with a
23 truck, SMC truck, run it a couple of miles, I don't know
24 how long it was, until we found like a little truck stop
25 on the left-hand side.